IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 437 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MUKHTYARKHAN AHMEDKHAN PATHAN - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR MM TIRMIZI for Applicant(s) : 1,
MS ARCHNA RAVAL APP for Respondent(s) : 1,
MR JITENDRA G SHETH for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 30/08/2007

ORAL JUDGMENT

1. Rule. Learned A.P.P. Ms. Archana C. Raval waives service of notice of Rule on behalf the respondent No.1 - State.

2. Learned advocate Mr. Jitendra G. Sheth for respondent No. 2 places on record affidavit dated 27th August,2007 filed by one Bhagwavat J. Trivedi, Manager of Balasinor Nagrik Sahkari Bank Ltd. The said affidavit is taken on record.

3. Learned advocate for the parties stated that the matter has been settled out side the court and as per order dated 10-7-2007 passed by this Court (Coram : D.N. Patel, J.) the petitioner has paid amount of Rs.2,10,468/- in 12 equal instalments each of Rs.17,539/- to complainant – Bank, and therefore, the parties may be permitted to compound the offence and order of conviction and sentence passed by the trial Court and confirmed by the appellate Court be aside.

4. Affidavit dated 27-8-2007 filed on behalf of respondent No. 2 indicates that the petitioner has paid the amount to complainant bank as directed by this Court by order dated 10-7-2006. Therefore, the offence may be compounded and the orders passed by the Courts below may be set aside.

5. In view of above, it appears that the parties have compounded the offence outside the court and the petitioner has made payment of the cheque

amount to the complainant Bank as directed by the Court. The affidavit filed on behalf of complainant Bank also indicates that the petitioner has paid the amount as directed by the Court and the offence has been compounded. The affidavit has been executed before the Notary Public. Therefore, it appears that there is no force, coercion or undue influence on the respondent and the affidavit is required to be accepted.

6. In view of the affidavit, the judgment and order of conviction and sentence passed by the trial Court and confirmed by the Appellate Court is required to be set aside.

7. In view of above settlement arrived at between the parties, the order of conviction and sentence passed by learned J.M.F.C., Balasinor in Criminal Case No. 22 of 2002 on 17-5-2006 and confirmed by learned Presiding Officer and Addl. Sessions Judge, 3rd Fast Track Court, Kheda at Nadiad in Criminal Appeal No. 19 2006 on 17-6-2006 is set aside and the petitioner is acquitted for the offence charged against him. The Criminal Revision Application is allowed accordingly. Fine be returned to the petitioner. Bail bonds stand cancelled. Rule made

absolute to the extent indicated above.

(Bankim N. Mehta, J.)

/JVSatwara/